

CHAPTER 57-22

COLLECTION OF DELINQUENT PERSONAL PROPERTY TAXES

57-22-01. Treasurer to give notice. The county treasurer, during the month of January preceding the time when personal property taxes shall become delinquent, shall give to each person, firm, corporation, or limited liability company from whom such a tax is due a written notice stating the amount of the tax due, the date when the same shall become delinquent, a schedule of the penalties which will accrue after delinquency, that unless such taxes are paid on or before the fifteenth day of October of that year the taxes will be placed in the hands of the sheriff for collection, and that in January of the next year the list of unpaid delinquent personal property taxes will be published in the official newspaper in the county.

57-22-02. Treasurer to make list of delinquent taxes - Notice by mail. On or before the first day of September in each year, the county treasurer shall make out a list of the unpaid delinquent personal property taxes, in the order in which they appear on the tax list, and, on or before the fifteenth day of September thereafter, shall notify each of the delinquents by mail that unless such taxes are paid on or before the fifteenth day of October of that year the taxes will be placed in the hands of the sheriff for collection.

57-22-02.1. County auditor to maintain record of delinquent personal property taxes. The county auditor, upon receiving a list of the delinquent personal property taxes as required by law, shall cause the same to be entered in individual accounts by taxpayers in a record to be kept in the county auditor's office. Such record must show the names of delinquent taxpayers alphabetically arranged, the amount of the tax of each, for what year or years, and all other information as shown on the original tax list. Subsequent payments must be posted from duplicate copies of tax receipts transmitted by the treasurer and sheriff.

57-22-03. List to be delivered to sheriff - Duties of sheriff. The county treasurer, on the fifteenth day of October, shall deliver the list of unpaid delinquent personal property taxes to the sheriff of the county, who immediately shall proceed to collect all such taxes, and if they are not paid upon demand, the sheriff shall distrain sufficient goods and chattels belonging to the person charged with such taxes to pay the same with penalties and costs. The list given to the sheriff must show the information contained in the original tax list and must include the name and post-office address of the taxpayer, the taxing district and school district in which the taxpayer resides, the valuation, the amount of consolidated taxes, the amount of school per capita or other taxes, and the total tax.

57-22-04. Distraint - Notice of sale - Sale - Surplus. Whenever personal property taxes are collected by distraint, the sheriff shall take the specific property distrained into possession, and immediately shall proceed to advertise the same by posting notices in three public places in the district or municipality where such property is taken, stating the time when and the place where the property will be sold, and the amount of the delinquent tax with penalties. If the taxes for which said property is distrained, with penalties and cost, are not paid before the day appointed for such sale, which may not be less than ten days after the taking of such property, the sheriff or the sheriff's deputy shall proceed, at public auction, to sell the property, or so much thereof as is sufficient to pay the taxes and the penalties and costs of distress and sale, and any surplus arising from the sale must be disposed of as in the case of the sale of mortgaged personal property.

57-22-05. Property exempt from distraint. No personal property is exempt from distraint and sale for the payment of personal property taxes, except personal property consisting of household furniture, wearing apparel, and necessary provisions belonging to the head of a family, to the value of one hundred dollars.

57-22-06. Sheriff may use other process. If a taxpayer charged with a personal property tax has not sufficient property which the sheriff can find to distrain to pay such tax, but has moneys or credits due the taxpayer or coming to the taxpayer from any person, corporation, limited liability company, governmental agency, municipality, or from this state, known to the

sheriff, or if such taxpayer has removed from this state, and has property or moneys or credits due the taxpayer or coming to the taxpayer in this state, known to the sheriff, the sheriff shall collect such personal property taxes and penalties by garnishment, attachment, distress, or other process of law, and such remedy is in addition to any other remedy provided by law.

57-22-07. Sheriff to give receipts for taxes collected. Upon receiving payment of any personal property tax, the sheriff shall make four copies of a receipt therefor, which must contain the information required by section 57-22-03 to be given to the sheriff by the county treasurer and the amount of taxes and interest and penalty collected. One of such receipts must be given to the taxpayer, one must be retained by the sheriff, one must accompany the statement furnished to the county treasurer as aforesaid, and one must be delivered to the county auditor together with a duplicate of the statement furnished to the county treasurer.

57-22-08. Sheriff to file statement with and pay collections to county treasurer. On the first day of each month after the sheriff receives the delinquent personal property tax list from the county treasurer, the sheriff shall make out and file with the county treasurer a statement of the personal property taxes collected by the sheriff during the preceding month and shall pay the same to the treasurer as shown by the statement of the personal property taxes collected, giving each receipt number, the name of the taxpayer, the year assessed, the amount of the tax, and the amount of penalty and interest collected thereon. The sheriff shall pay to the county treasurer all personal property taxes collected as shown by the sheriff's said statement at the time of delivering said statement to the county treasurer.

57-22-09. Sheriff to file annual report with county auditor. The sheriff, on or before January first of each year, also shall file with the county auditor a full and complete list of uncollected taxes and shall append to such list the sheriff's affidavit, or the affidavit of the sheriff's deputy, stating that the sheriff has made diligent search and inquiry for goods and chattels out of which to make collection of the taxes remaining uncollected, and that the sheriff is unable to collect the same. In case of the removal of any delinquent taxpayer, the sheriff shall note on the margin of the list the place to which the delinquent taxpayer has moved, with the date of removal, if the sheriff can ascertain such facts.

57-22-10. County auditor to maintain record of delinquent personal taxes.
Repealed by S.L. 1957, ch. 357, § 1.

57-22-11. Cancellation of uncollectible taxes. At its regular meeting in January of each year, the board of county commissioners shall examine the sheriff's report on personal property taxes and compare the same with the tax lists of the auditor and treasurer, and, upon such report, may cancel such taxes as the board is satisfied cannot be collected. The items of tax so canceled must be noted on the tax lists of the treasurer and auditor, and the auditor forthwith shall make a report to the sheriff of the tax items canceled and also shall certify to the director of the state office of management and budget the amount of state taxes canceled, and the same must be credited to the county.

57-22-12. Sheriff to retain tax lists. The sheriff shall maintain in the sheriff's office a record of the original delinquent taxes furnished to the sheriff by the county treasurer, and it is the sheriff's duty to collect at any time any taxes remaining uncanceled, unabated, or unpaid. Upon sending the sheriff's notices for each succeeding year, the sheriff shall include any unpaid balances, with interest, penalty, and costs, with the new delinquent amount, which must be collected in the same manner as the current delinquent tax.

57-22-13. When tax becomes lien. Personal property taxes, for the purpose of distraint, are a lien upon all the personal property in possession of the person assessed from and after the date when the assessment is made.

57-22-13.1. Notice of sale given to county treasurer. No security interest in or other lien upon personal property is foreclosed by the sale of such property unless the secured party, the secured party's agent or attorney, or the editor or publisher of the printing concern or company which prints such foreclosure notice, at least five days before the date of such sale, has

mailed or delivered to the county treasurer of the county in which the sale is to be held a copy of such notice of foreclosure sale. The notice must be mailed to the county treasurer by registered or certified mail and must contain a list of the personal property to be sold, with the name and address of the owners of such property. An affidavit reciting the mailing or delivery of such notice to the county treasurer must be filed with the report of sale required to be filed in the office of the recorder, and no such foreclosure sale is valid unless such notice of sale has been mailed or delivered to the county treasurer as herein provided.

57-22-13.2. Property distrained by sheriff when taxes not paid. Upon receipt of the notice of foreclosure of a security interest in or other lien upon personal property, the county treasurer shall ascertain whether the owner of such personal property has paid the taxes levied against the owner and if the county treasurer finds that such taxes are due and owing the county treasurer immediately shall notify the sheriff who, unless upon demand such taxes are paid, shall distrain such property, or so much thereof as may be necessary, to pay such taxes. No transfer of personal property to the secured party or to the holder of a lien thereon in any way affects the lien of personal property taxes assessed against such property.

57-22-14. Unlawful to dispose of personal property without paying tax - Penalty. Any person who removes from this state, or disposes of any personal property which has been assessed for personal property taxes, with intent to avoid the payment of such taxes and without paying the same, is guilty of a class A misdemeanor.

57-22-15. Tax receipt required for shipment of emigrant movables. Repealed by S.L. 1963, ch. 375, § 6.

57-22-16. Procedure when personal property is about to be sold or removed without payment of tax. If a township, city, or county officer learns or believes that there is danger that personal property which has been assessed and upon which any personal property taxes are due or will be due, will be sold, or removed from the county, without payment of the taxes and without leaving sufficient property to pay the whole of such taxes, the officer shall report such fact to the sheriff, who forthwith shall collect the taxes, or distrain and sell sufficient property to pay the same, if they are not paid on demand, or require an undertaking from the owner in favor of the county treasurer, conditioned that all taxes levied upon such property will be paid when due. Such undertaking must be approved by the recorder, unless the board of county commissioners designates a different official. If the taxes involved have not been levied, they must be ascertained by the county auditor by applying the aggregate mill levy of the previous year for the taxing district in which the property is assessed to the current taxable valuation, and if, after the tax for the current year is levied, there is any excess, it must be refunded to the taxpayer on order of the board of county commissioners. In case a bond has been given, and the taxes are not paid when due, the county treasurer shall bring an action for the taxes and costs in the district court of the county, and the state's attorney shall represent the treasurer in such action on the bond.

57-22-17. Personal property individually assessed - Paramount lien. Any person owing personal property taxes is liable civilly to the purchaser of any property assessed therefor, but the property purchased or transferred is liable in the hands of the purchaser for such taxes if it can be shown that the property transferred was assessed individually. In that case, the taxes constitute a paramount lien on any item of property assessed individually, and no sale or transfer affects such lien.

57-22-18. Conditional sales - Taxes payable before change of possession. If personal property has been sold or transferred under a conditional sale contract, the owner, holder, or assignee of such contract may not attach nor repossess such property nor acquire it by bill of sale, on account of the cancellation or foreclosure of such contract, until the taxes levied upon the said property have been paid as follows:

1. For property other than mobile homes subject to tax under chapter 57-55, all taxes levied upon the property must be paid in full.

2. For mobile homes subject to tax under chapter 57-55, the tax levied upon the property for the current year and the most recent preceding year must be paid in full.

57-22-19. Lien of tax follows sale in bulk. Taxes upon a stock of goods or merchandise of any nature, and upon furniture and fixtures in any type of business or industry, continue to constitute a lien thereon when sold in bulk, and may be collected from the owner or purchaser, who is liable personally therefor.

57-22-20. Precedence of lien for taxes. The state, and each county thereof, to the extent of the amount of taxes assessed and levied against particular personal property and property included in the same class, as disclosed by the statutory assessment list, has a lien upon such property prior to all other liens on or against the same. Any person holding a lien on personal property of any tax debtor may demand and require the property of the tax debtor not covered by a lien to be first exhausted in the payment of such taxes.

57-22-21. Personal property taxes made lien on real estate. Personal property taxes must be made a lien upon real estate of the tax debtor as follows:

1. At its January meeting in each year, the board of county commissioners shall declare by resolution that all unpaid and uncanceled personal property taxes, from and after the date of the extension and entry thereof as provided in this chapter, constitute a lien on any real estate owned by the tax debtor, or which the tax debtor thereafter may acquire, and shall make such taxes a specific lien on particular descriptions of real property owned by the tax debtor as of the date of the extension and entry of such lien.
2. The county auditor shall extend to and enter upon the tax list of real estate then in the hands of the county treasurer, for the year immediately preceding, opposite the descriptions of real estate designated by the board of county commissioners which belong to the personal property tax debtor, the year for which the personal property taxes are uncollected and the amount thereof. Such entry must be made without regard to any prior payment of real estate taxes on said descriptions, and the treasurer is without authority thereafter to issue any receipt in full for said real estate taxes without making collection at the same time of the personal property taxes so extended; a taxpayer holding a specific superior lien on said descriptions ahead of personal property taxes charged thereon is entitled to tax receipts without regard to nonpayment of such inferior personal taxes.
3. If the tax debtor afterwards acquires any real property in the county, such delinquent personal property taxes may be entered in like manner upon any subsequent tax list, and from the time of such entry is a lien on any real property of the tax debtor against which they were entered in the same manner and to the same extent as the taxes upon such real property.

57-22-21.1. Immediate assessment of personal property taxes. It is the duty of the assessor, upon discovery of any personal property in the county, belonging to transients or nonresidents, the taxes upon which cannot in the assessor's opinion be made a lien upon sufficient real property, or upon discovery of personal property within the county belonging to a resident of this state but normally located in another state or province, to secure the payment of such taxes, as provided in section 57-22-21, to immediately, and in any event not more than five days thereafter, make a report to the treasurer, setting forth the nature, kind, description, and character of such property, in such a definite manner that the treasurer can identify the same, and the amount and assessed valuation of such property, where the same is located, and the name and address of the owner, claimant, or other person in possession of the same.

57-22-21.2. Immediate collection of personal property taxes. The county treasurer must collect the taxes on all personal property, and in the case provided in the preceding section, it is the duty of the treasurer immediately upon receipt of such report from the assessor to notify the person or persons against whom the tax is assessed that the amount of such tax is due and

payable at the county treasurer's office. The county sheriff shall at the time of receiving the assessor's report, and in any event within thirty days from the receipt of such report, levy upon and take into possession such personal property against which a tax is assessed and proceed to sell the same, in the same manner as property is sold on execution by the sheriff, and the county treasurer may for the purpose of making such levy and sale, designate and appoint the sheriff as the treasurer's deputy, and such sheriff is entitled to receive the same fees as the sheriff is entitled to in making a seizure and sale under execution. For the purpose of determining the taxes due, on such personal property, the treasurer shall use the levy made during the previous year, if the levy for the current year has not yet been made. Nothing herein may be construed as to prevent the county treasurer or the county sheriff from collecting taxes due on personal property by distraint thereof at any time after the expiration of the period hereinbefore mentioned.

57-22-22. Extended personal property taxes to be collected with real estate taxes.

Collection of personal property taxes entered and extended as a lien on real estate may be enforced by foreclosure of tax lien. The lands to be foreclosed for personal property taxes entered and extended thereon must be designated by resolution of the board of county commissioners.

57-22-23. Priority of lien of extended personal property tax. The lien of personal property taxes charged against real estate has priority over any judgment, mortgage, or other lien or claim, placed of record subsequent to the date when such personal property taxes are entered against such real property, except that the lien for real estate taxes for a subsequent year has priority over personal property tax liens formerly charged and spread.

57-22-24. Collection of personal property taxes by action. Whenever it is deemed expedient by the board of county commissioners of any county to collect delinquent personal property taxes by action, the board has the power to institute an action in the name of the county for and on behalf of the county against the person charged with such taxes.

57-22-25. Fees of sheriff for distraint. The sheriff or the sheriff's deputy must be allowed the same fees for making distraint and sale of goods and chattels for the payment of taxes as are allowed by law for making a levy and sale of personal property on execution, and travel fees must be allowed as determined by law. Such fees and mileage must be added to any tax and collected by the sheriff, and when presenting a statement and bill for such fees and mileage a full and complete description of the route traveled must be given. In no case may mileage be charged more than once from the county seat of the county in which the services required are performed.

57-22-26. Deduction of personal property taxes from salaries, wages, and claims against public funds. Repealed by S.L. 1977, ch. 530, § 1.

57-22-27. Who are subject to deductions. Repealed by S.L. 1977, ch. 530, § 1.

57-22-28. Contract for payment of taxes shall not affect deductions. Repealed by S.L. 1977, ch. 530, § 1.

57-22-29. Contract for tax collection - Contracts validated.

1. In any county where for any reason personal property taxes that have been delinquent more than one year remain unpaid and uncanceled, whether put into judgment or not, the board of county commissioners may contract with the sheriff of the county, or with any elector of the state, to pay a percentage of the delinquent personal property taxes, not exceeding ten percent of the amount collected, as compensation for collecting the same, in lieu of, or in addition to, the compensation provided by law for said sheriff. When a contract is made with any person other than the sheriff, the county commissioners may in their discretion pay any reasonable salary or expenses or a percentage of the tax collected, or combination thereof, and the contract may cover all or only certain taxing districts within the county, and contracts may be made with different collectors for different portions of the county.

In the event delinquent personal property taxes are owed by a person not residing in North Dakota, the county commissioners may contract with any person, firm, corporation, or limited liability company, to pay a reasonable percentage of the delinquent taxes collected, as compensation for the collection. Such contractors shall execute either a personal or corporate surety bond conditioned upon satisfactory performance of the provisions of the contract and shall be in an amount and of a type approved by the county commissioners.

2. All contracts heretofore made and entered into by county commissioners for the collection and recovery of personal property taxes are declared legal and valid notwithstanding the provisions of law to the contrary.

57-22-30. Bond and reports of collectors. Any collector, other than the sheriff, with whom the county has contracted for the collection of personal property taxes, shall furnish a good and sufficient bond, in an amount to be fixed by the board of county commissioners, for the faithful discharge of the collector's duties and for the payment to the county of all moneys collected. The collector, on the second day of each month, shall file with the county treasurer a verified report and account of the taxes collected by the collector the preceding month, showing the name of each person from whom taxes were collected and the amount collected and at the same time shall pay to the county treasurer the full amount collected. The expenses of such collection, whether made by the sheriff or other collector, according to the contract, must be borne pro rata by the state and every other political subdivision or municipality having an interest in the taxes collected and must be paid to the collector on order of the board of county commissioners.

57-22-31. Payment of taxes after judgment. Upon payment to the county treasurer of any personal property taxes for which judgment has been obtained, the treasurer shall deliver a certificate of the fact of payment to the clerk of the court. The clerk shall file the certificate and enter the satisfaction of the judgment in the judgment docket, stating the date of payment and the number of the receipt.

57-22-32. Collection from tax debtor who moves to another county - Duty of county auditor. Upon the removal of a delinquent tax debtor from the county, collection must be made from the debtor in the manner following:

1. In case of the removal of any delinquent tax debtor from the county in which the debtor's personal property was taxed to any other county in this state, the assessor immediately shall make a proper effort to ascertain the place of the debtor's destination and to report the place to the county auditor. The county auditor shall prepare and forward to the recorder of the county to which the tax debtor has removed, unless the board of county commissioners designates a different official of that county, a statement of the amount of the delinquent taxes, including penalties and costs that may have attached, specifying the value of property on which the taxes were levied.
2. On receipt of the statement, the recorder, or designated official, receiving the statement shall issue a warrant to the sheriff of the county, and the sheriff shall proceed immediately to collect the taxes in the manner in which the sheriff collects delinquent taxes in the county. The sheriff shall collect from the tax debtor an additional sum of ten dollars. The sum must be paid to the recorder, or designated official, as the fee for issuing the warrant, and all taxes collected must be remitted by the sheriff to the treasurer of the county to which the taxes belong, together with the original statement of account, and if any taxes remain unpaid a statement must be made of the reason, and proper entries must be made on the tax lists of the county where the tax was levied.

57-22-33. Penalties. Repealed by S.L. 1975, ch. 106, § 673.